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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

15 Cr. 73 (RMB)

5 EVGENY BURYAKOV,

6 Defendant.

7 -----x

8 May 25, 2015

9 11:25 a.m.

10 Before:

11 HON. RICHARD M. BERMAN,

12 District Judge

13  
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the  
Southern District of New York

17 BY: STEPHEN J. RITCHIN

BRENDAN F. QUIGLEY

18 EMIL J. BOVE, III

Assistant United States Attorneys

19  
20 WHITE & CASE

Attorneys for Defendant

21 BY: SCOTT E. HERSHMAN

DANIEL LEVIN

22 KIMBERLY A. HAVIV

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1 THE COURT: So, as you are aware, we are here today  
2 for sentencing.

3 Some preliminary matters. First, we have, as usual, a  
4 standby Russian language interpreter, who I don't believe  
5 Mr. Buryakov has needed, but that person is here today.

6 It is okay, Mr. Hershman, to proceed in English?

7 MR. HERSHMAN: Yes, your Honor.

8 THE COURT: Unless and until you tell me, the  
9 interpreter won't be interpreting. Is that the way you want to  
10 do it?

11 MR. HERSHMAN: That's fine, yes.

12 THE COURT: Okay. So then I have been handed a  
13 document for me to sign which is called an order of removal,  
14 which I have signed incidentally. It is based, in large  
15 measure, on a document that Mr. Buryakov and you, Mr. Hershman,  
16 signed just a few minutes ago, which is called Defendant's Plea  
17 Statement in Support of Judicial Removal. Both of those  
18 documents speak for themselves -- they will be part of the  
19 docket -- but I will just run through what they are.

20 So, in the Defendant's Plea Statement in Support of  
21 Judicial Removal, Mr. Buryakov says that he has, among other  
22 things, received a Notice of Intent to Request Judicial  
23 Removal, which is dated May 18, 2016. So he has that notice.  
24 He also says that he received Factual Allegations in Support of  
25 Judicial Removal on or about May 18, and there he says he

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1 hereby waives his right to have the allegation served 30 days  
2 prior to sentencing.

3 He goes on to say that his rights in connection with a  
4 judicial removal proceeding were fully explained to him by,  
5 among other persons, yourself, Mr. Hershman; and he says that,  
6 after consulting with counsel and understanding the legal  
7 consequences of doing so, that he knowingly and voluntarily  
8 waives the right to the notice and hearing provided for in the  
9 relevant section of 18 U.S.C. § 1228(c)(2); and that he further  
10 waives any and all rights to appeal, reopen, reconsider, or  
11 otherwise challenge this order.

12 He also goes on to say that he understands and  
13 knowingly waives his right to a hearing before an immigration  
14 judge or any other authority under the INA on the question of  
15 his removability from the United States.

16 He goes on to say that he hereby admits that all of  
17 the factual allegations set forth in the allegation section are  
18 true and correct, and he goes on to concede that he is  
19 removable from the United States as an alien who is present in  
20 the United States in violation of a certain section of the INA  
21 or any other law of the United States or whose nonimmigrant  
22 visa has been revoked.

23 He goes on to say that he waives any and all rights he  
24 may have to relief for protection from removal, deportation, or  
25 exclusion, and he goes on to describe in more detail what those

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1 rights are.

2 He goes on to agree that there be the entry of a  
3 stipulated judicial order of removal, which is the document  
4 that I signed dated May 25, which I did after having reviewed  
5 this document that I am summarizing now.

6 He consents to the introduction of this statement,  
7 namely, his statement, as an exhibit in the record of these  
8 judicial proceedings, and he also agrees to assist the United  
9 States Immigration and Customs Enforcement in the execution of  
10 his removal, and particularly in the procurement of any travel,  
11 identity, or other documents necessary for that removal. And  
12 he concedes that the entry of this judicial order of removal  
13 renders him permanently inadmissible to the United States.

14 And, finally -- this is a summary -- he accepts a  
15 written order issued by this court for his removal from the  
16 United States and waives any and all rights to challenge any  
17 provision of this agreement in any U.S. or foreign court or  
18 tribunal.

19 Does anybody want to comment or supplement my summary  
20 of either of these documents?

21 MR. HERSHMAN: No; it's fair.

22 THE COURT: Is that okay with you?

23 MR. RITCHIN: That's fine with the government.

24 THE COURT: So those documents, as I say, will be  
25 exhibits to this proceeding, and now we are going to move to

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1 sentencing.

2 So how I usually do sentencing is I usually, and I  
3 will, review what I consider to be the pertinent factors at 18  
4 United States Code § 3553(a). This will be a little bit longer  
5 than usual because the parties, that is to say, defense counsel  
6 and the government, seem to have a different take on some of  
7 the facts that have transpired here. We will deal with that  
8 after I summarize those differences as best I can and allow you  
9 to make comments about that. So that is stage one.

10 Stage two will be I will summarize what I am planning  
11 to do, what sentence I am planning to impose.

12 And, finally, the third stage, I will impose the  
13 sentence, at which point I will ask Mr. Buryakov to stand for  
14 that.

15 And all along the way, counsel will have the  
16 opportunity to comment.

17 In sentencing a defendant, following the changes as a  
18 result of Supreme Court decisions in *Gall v. United States*,  
19 that's a 2007 case; and also in *Kimbrough v. United States*,  
20 another 2007 Supreme Court case; also *Booker, United States v.*  
21 *Booker*, a 2005 Supreme Court case; and also as guided by  
22 decisions of our Second Circuit Court of Appeals in the *Crosby*  
23 case, 2005, and in the *Regalado* case, 2008, we know that the  
24 United States Sentencing Guidelines are no longer mandatory  
25 here -- as we will discuss in a few minutes, there is not a

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1 sentencing guideline -- but there is a sentence agreed to by  
2 both the defense and the government.

3           What courts do in fashioning a sentence in light of  
4 those Supreme Court decisions is to review factors found at 18  
5 United States Code § 3553(a) and which, as I say, I have done  
6 before coming out on the bench today. Those factors include  
7 the nature and the circumstances of the offense or crime; the  
8 history and characteristics of the defendant; the need for the  
9 sentence to accomplish certain objectives, which are these,  
10 reflecting the seriousness of the offense, promoting respect  
11 for the law, providing a just punishment, affording adequate  
12 deterrence to criminal conduct, protecting the public from  
13 further crimes, providing the defendant with needed educational  
14 or vocational training, medical care, or other correctional  
15 treatment in the most effective manner. In doing that, I will  
16 look at the kinds of sentences available, the kinds of  
17 sentences and the sentencing range established in the  
18 sentencing guidelines typically that would be relevant here.  
19 There does not appear to be a sentencing guidelines for this  
20 offense. I look at any policy statements issued by the United  
21 States Sentencing Commission, if any there were that applied;  
22 seek to avoid unwarranted sentence disparities among similarly  
23 situated defendants; and, in appropriate cases, provide for  
24 restitution.

25           So, as I say preliminarily, there does not appear to

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1 be an applicable guideline range for this offense, nor is there  
2 what we call an offense level. As far as criminal history  
3 category is concerned, it appears to be I. There are no  
4 reported prior offenses.

5 When you review these factors as they apply to this  
6 case, the following stands out: On or about March 11, 2016,  
7 Mr. Buryakov pled guilty to conspiring to act in the United  
8 States as an agent of a foreign government, in this case the  
9 Russian Federation, without prior notification to the United  
10 States Attorney General. This plea was accepted by me on that  
11 date, March 11, 2016.

12 Mr. Buryakov pled guilty pursuant to a plea agreement,  
13 which was dated March 9, 2016. Indeed, it's my recollection  
14 that the plea came about as we were approaching a trial date in  
15 this matter which was obviated by the plea and plea agreement.

16 In the plea agreement, both the defense and the  
17 government agreed that the appropriate sentence in this case is  
18 30 months of imprisonment. The parties also agreed that the  
19 applicable range for any fine is \$10,000 to \$100,000. The  
20 parties also agreed that neither what we call a downward nor an  
21 upward departure from the stipulated sentence of 30 months'  
22 imprisonment was warranted and that neither party would seek  
23 such a departure or suggest to the probation office or to the  
24 court that it consider such a departure or adjustment in  
25 sentence. The parties further agreed that they would not seek

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1 a sentence other than this stipulated sentence of 30 months,  
2 nor would they suggest in any way that the probation or the  
3 court consider a sentence other than the stipulated sentence.

4 Mr. Buryakov also agreed that his entry of a guilty  
5 plea to the charged offense authorized the sentencing court to  
6 impose a sentence up to and including the statutory maximum  
7 sentence, which is five years of imprisonment.

8 Mr. Buryakov is 41 years of age. He is married, has  
9 two minor children. He is, as I mentioned before, a citizen of  
10 the Russian Federation. He has reported some medical issues  
11 related to vision. He attended school in Russia, where he  
12 received what I interpret to be the United States equivalent of  
13 a bachelor's degree. He is fluent in English, although, as we  
14 said at the outset, in an abundance of caution, I have provided  
15 for a Russian interpreter to be present throughout these  
16 proceedings.

17 He is employed by what we are referring to as VEB --  
18 the full name is Vnesheconombank -- and has been from December  
19 2002 through January 2015.

20 The probation department states that Mr. Buryakov  
21 completed a financial affidavit in which he reported assets he  
22 owns in Russia. Probation noted, however, that in February  
23 2015, Mr. Buryakov transferred \$20,000 to a jointly held bank  
24 account in Russia and that in April 2015, he possessed a  
25 Cadillac SRX which was auctioned for \$17,000 cash, and the



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1 \$17,000 cash was transferred to an individual bank account in  
2 Russia.

3 Probation has stated that defendant said he was a 25  
4 percent shareholder in a residential apartment in Russia which  
5 is valued at \$50,000 according to the probation report.  
6 Probation also said it was unclear to them whether the \$50,000  
7 is the value of Mr. Buryakov's share or the value of the  
8 apartment overall.

9 Defense -- incidentally, this will come up as an  
10 issue -- opposes the imposition of a fine and states that  
11 Mr. Buryakov has no income, earning capacity, or financial  
12 resources in the United States, and that any fine, therefore,  
13 would impose a substantial hardship on him.

14 The government notes that, pursuant to United States  
15 Sentencing Guidelines 5E1.2(a), the court shall impose a fine  
16 in all cases except where the defendant establishes he is  
17 unable to pay and is not likely to become able to pay any fine.

18 The government adds that defendant is a college  
19 graduate who worked as a banker until his arrest and earned a  
20 monthly salary of \$17,000, or approximately \$204,000 per year;  
21 and that if the agreed-upon sentence is imposed, he will be 42  
22 years old when he is released, and this is a quote from the  
23 government "presumably with decades of earning potential ahead  
24 of him."

25 The presentence investigation report notes that

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1 Mr. Buryakov objects to some information contained throughout  
2 the presentence investigation report relating to references  
3 that he is or is alleged to be an agent of the SVR. Probation  
4 states that the information it has included in the offense  
5 conduct section of its report was provided by the government  
6 and, according to the government, is accurate.

7 According to probation, defense counsel advised  
8 probation that, "Under the federal rules, the court need not  
9 resolve these factual disputes because the government has  
10 agreed that 30 months is the appropriate sentence, even  
11 assuming all of these allegations are true."

12 By submission dated May 11, 2016, the defense states,  
13 among other things, that the agreed-upon sentence is 30 months  
14 and that it is "fully supported by sentencing factors under 18  
15 United States Code § 3553, which govern in the absence of an  
16 applicable guideline sentence."

17 Defense counsel also states that "the agreed sentence  
18 is appropriate even assuming, *arguendo*, the government's most  
19 serious factual allegations, namely, that Mr. Buryakov was an  
20 SVR agent."

21 The defense states that the original indictment and  
22 complaint presented Mr. Buryakov as an alleged agent of the  
23 Russian intelligence service -- what I have been referring to  
24 as "SVR," that is the Russian intelligence service -- who  
25 engaged in spying over an extended period of time in the United

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1 States, and that the superseding indictment in this matter  
2 removed any references to the SVR, defendant's status as an SVR  
3 agent, or defendant's use of tradecraft of any kind.

4 In his plea allocution, Mr. Buryakov stated the  
5 following, I quote it here again because of this seeming  
6 disagreement between the defense and the government.

7 Mr. Buryakov stated, "I knowingly agreed with Igor Sporyshev,  
8 who I knew to be an official of the Russian Federation, namely,  
9 an official with the New York Office of the Trade Mission of  
10 the Russian Federation, that I would take certain actions in  
11 the United States at Mr. Sporyshev's direction without my  
12 having provided notification as an agent of the Russian  
13 Federation, as required, to the U.S. Attorney General. In  
14 furtherance of said agreement, in the Southern District of New  
15 York, on or about May 21, 2013, I used a telephone to speak  
16 with Mr. Sporyshev about information that Mr. Sporyshev  
17 wanted." That's a section of the plea transcript that I have  
18 quoted.

19 Defense argues in its submission that the government's  
20 case against Mr. Buryakov changed markedly since the complaint  
21 in this case was filed and that the presentence investigation  
22 report incorrectly accepted the original complaint at face  
23 value and ignored subsequent pleadings and actual evidence.

24 The defense also submitted letters. By the way, in  
25 that connection, I think just today another letter on

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1 Mr. Buryakov's behalf was submitted from his employer, his boss  
2 at the bank. These are letters from Mr. Buryakov's family and  
3 a friend, Reverend Ioann Lapidus, archpriest of the Russian  
4 Orthodox Church, in support of Mr. Buryakov.

5 Mr. Buryakov's wife has submitted a letter. In that  
6 letter she apologizes for her English, which of course is not  
7 her first language, and that letter, I think, is accompanied by  
8 a Russian language counterpart.

9 Defendant's children submitted a joint letter in  
10 English requesting that their father return home soon.

11 Mr. Buryakov's parents submitted a joint letter  
12 describing what a wonderful son he has been to them and how he  
13 had been described by his teachers as naturally gifted at  
14 learning foreign languages, especially English. His parents  
15 also noted that Mr. Buryakov has two university degrees. In  
16 her letter, defendant's mother explains that she had been  
17 residing in Tunisia with her husband, who is employed with the  
18 Russian Embassy in Tunisia, but that she returned to Russia to  
19 take care of defendant's children, as Mr. Buryakov's wife had  
20 to work full-time. I believe we have previously learned that  
21 she works as an attorney.

22 So here, the reference I made before to some  
23 disagreement, here is what the government has to say. The  
24 government submission is dated May 18, 2016. There is no  
25 disagreement as to the sentence. They, both defense and the

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1 government, seek the agreed-to 30-month sentence of  
2 incarceration. But, among other things, the government notes  
3 that Mr. Buryakov in his sentencing submission has attempted, I  
4 guess you would say, to minimize the seriousness of his offense  
5 conduct and has not devoted a word in his submission to "any  
6 expression of remorse or contrition for his crime." That's  
7 from the government's submission.

8 The government goes on to say that, "As an initial  
9 matter, the defendant admitted to conspiring with codefendant  
10 Igor Sporyshev to act as an agent of the Russian Federation in  
11 the United States. There can be no serious question that  
12 Sporyshev was an SVR agent." The government also states,  
13 "Repeatedly and over a significant period of time, the  
14 defendant, Mr. Buryakov, responded to taskings from Sporyshev.  
15 The defendant also made at least one proposal to Sporyshev with  
16 respect to actions that the SVR should take. The defendant  
17 also took direction from Sporyshev about with whom he should  
18 meet in the United States while gathering information of value  
19 to Russia. Moreover" -- this is, again, all from the  
20 government's submission -- "the defendant's coconspirator  
21 Podobnyy expressly described the defendant as an employee of  
22 the SVR," from the government's submission.

23 The government goes on to say that "the defendant's  
24 argument that the court should conclude that the government was  
25 not going to approve the defendant's use of espionage

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1 tradecraft, because the case agent who swore to the allegations  
2 in the complaint was allegedly deleted from the case, is both  
3 wrong and based on false statements. The government intended  
4 throughout to call the case agent as a fact witness at trial  
5 and never suggested otherwise."

6 And additionally, the government states "The  
7 defendant's speculation that the differences between the  
8 initial and superseding indictments reflect the government's  
9 doubt about allegations in prior charging documents about the  
10 SVR, the defendant's status as an agent of the SVR, and his use  
11 of tradecraft is similarly baseless."

12 Finally, the government states, "In sum, the  
13 defendant's arguments about the seriousness of this conduct are  
14 meritless. His decision to make those meritless arguments,  
15 while at the same time expressing no remorse at all for the  
16 crime to which he has pled guilty, sheds light on the  
17 characteristics of the defendant."

18 And the government also states that the agreed-upon  
19 sentence is fully warranted and should be imposed.

20 So the question I would ask, in light of this  
21 disagreement, which is descriptive -- there is no disagreement  
22 with respect to the sentence -- is whether either the  
23 government or defense counsel wishes to have me conduct a  
24 hearing to further reconcile those differences, or is it  
25 adequate just to leave the record as I have described it and as

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1 they may wish to orally supplement it?

2 MR. HERSHMAN: From our perspective there is no need  
3 for a hearing, your Honor. As you indicated earlier, we  
4 believe there are no factual disputes that need to be resolved  
5 today at all.

6 MR. RITCHIN: Your Honor, the government stands by its  
7 description of the facts, but I think in light of the  
8 agreed-upon sentence, which has been agreed upon by both  
9 parties, the court could proceed.

10 THE COURT: Okay.

11 I have also reviewed the presentence investigation  
12 report in this case which is dated May 18, 2016, together with  
13 the addendum of that date and the sentencing recommendation of  
14 that date, and also correspondence dated, as I alluded to  
15 before, May 11, 2016 from Mr. Hershman and May 18, 2016 from  
16 AUSA Bove.

17 Mr. Hershman, I would ask you if you and Mr. Buryakov  
18 have had the opportunity to read and discuss these presentence  
19 materials?

20 THE DEFENDANT: Yes, your Honor, we have.

21 THE COURT: Mr. Buryakov, you went over those  
22 materials with Mr. Hershman?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: And do either of you have any further  
25 objections other than I may have noted or you have in your

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1 submissions to the presentence report?

2 MR. HERSHMAN: No, your Honor, none.

3 THE COURT: Mr. Buryakov?

4 THE DEFENDANT: No.

5 THE COURT: How about the government?

6 MR. RITCHIN: No, your Honor.

7 THE COURT: So our practice is to return that report  
8 to probation, which I do.

9 It is my intention to honor the parties' agreement and  
10 sentence at 30 months. I am happy to hear at this time, if  
11 they wish to be heard, from Mr. Hershman, Mr. Buryakov, and the  
12 government.

13 MR. HERSHMAN: We have nothing to add to our  
14 submissions, your Honor. Thank you very much.

15 THE COURT: You bet.

16 Mr. Buryakov, anything further?

17 THE DEFENDANT: No, your Honor.

18 THE COURT: Anything from the government?

19 MR. RITCHIN: Your Honor, the court has summarized the  
20 government's position and the facts which we think make the  
21 sentence fully warranted, so I won't burden either the record  
22 or the court's time repeating them.

23 THE COURT: I take it both sides are content with the  
24 summaries as I have presented them?

25 MR. HERSHMAN: Yes.



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1 MR. RITCHIN: Yes, your Honor.

2 THE COURT: Okay. Then I am going to adopt the  
3 findings of fact in the presentence investigation report,  
4 unless there is further objection from defense counsel first?

5 MR. HERSHMAN: Nothing more than what we have already  
6 submitted.

7 THE COURT: Or Mr. Buryakov.

8 THE DEFENDANT: No, your Honor?

9 THE COURT: Or Mr. Ritchin.

10 MR. RITCHIN: The government has no objection.

11 THE COURT: Let me preview the sentence, and then I  
12 will impose it, just to give you an opportunity to be heard  
13 further.

14 I intend to impose the sentence as stated of 30 months  
15 of incarceration. As I have said, there is no guideline range  
16 here, no offense level. It appears to be a criminal history  
17 category of I. This is my practice. I do intend to impose a  
18 term of supervised release of three years following  
19 imprisonment, although I recognize that, and based on what we  
20 said at the outset, no supervision will come into play likely  
21 in this matter because Mr. Buryakov will be deported.

22 If there were any supervision here that were to come  
23 into play, it would be subject to the mandatory conditions that  
24 Mr. Buryakov not commit another federal, state, or local crime;  
25 that he not illegally possess a controlled substance; that he

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1 not possess a firearm, dangerous weapon, or destructive device;  
2 and that at the refrain from any unlawful use of a controlled  
3 substance. By the way, I am not suggesting that there is a  
4 controlled substance issue here. These are mandatory  
5 conditions.

6 The defendant shall refrain from any unlawful use of a  
7 controlled substance, he shall submit to one drug test within  
8 15 days of placement on any supervision, supervised release,  
9 and at least two unscheduled drug tests thereafter as may be  
10 directed by the probation officer.

11 In addition, he is required to comply with what are  
12 called standard conditions 1 through 13, plus these special  
13 conditions: that if he were to participate in supervision in  
14 the United States, that would be in his district of residence.  
15 If he were released in the United States, which is unlikely, he  
16 would be required to report to probation within 48 hours of any  
17 release. He will be required to cooperate with the Department  
18 of Homeland Security, Bureau of Citizenship and Immigration  
19 Services in connection with any proceedings to determine his  
20 status in the United States and abide by their rules and  
21 regulations. That aspect may have been superseded by the order  
22 that I signed earlier today.

23 There is an issue about a fine. I am happy to hear  
24 from people on this. As you heard, there is a disagreement  
25 between the government and the defense. It is my intention to

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1 impose a fine in the amount of \$10,000 payable within six  
2 months of release from custody. You will recall that the  
3 parties stipulated that the fine range in this case was 10 to  
4 \$100,000. The probation department recommended a \$10,000 fine.  
5 I am going along with that recommendation -- I do think that's  
6 appropriate -- although I have given Mr. Buryakov six months to  
7 pay the fine as opposed to 60 days suggested by probation.

8 I do not intend to impose restitution. There is no  
9 victim within the meaning of 18 United States Code § 3663 or  
10 18 U.S.C. 3663(a). In considering the financial penalties --  
11 in this case, the fine -- I have considered the factors set  
12 forth at 18 United States Code § 3663(a)(1)(B)(i) or 18 U.S.C.  
13 § 3664. Those factors typically apply to restitution, but I  
14 have used them as a guide to come up with the analysis with  
15 respect to fine, just as a guide.

16 I also intend to impose a \$100 special assessment,  
17 which is mandatory and due immediately under 18 United States  
18 Code § 3013.

19 Briefly, the reasons for that sentence are,  
20 notwithstanding that there is no sentencing guidelines offense  
21 level, that there does appear to be a criminal history category  
22 of I and that, as stated, there is no guideline range. In lieu  
23 of that, the parties have agreed, by plea agreement dated March  
24 9, 2014, that 30 months' imprisonment is the appropriate  
25 sentence; and I agree that that is the appropriate sentence

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1 given the factors at 18 U.S.C. § 3553(a), including the  
2 seriousness of the offense, the need for punishment and  
3 deterrence, the nature and circumstance of the offense, the  
4 history and characteristics of Mr. Buryakov. I do think this  
5 sentence reflects the seriousness of the offense. I think it  
6 helps promote respect for the law, provides a just punishment  
7 affords adequate deterrence, and helps protect the public.

8 So that's the proposed sentence. If defense counsel,  
9 Mr. Buryakov, or the government wishes to be heard before I  
10 actually pronounce the sentence, this would be a good time.

11 MR. HERSHMAN: Your Honor, simply, on behalf of the  
12 defense, we would ask the court, if it is appropriate now, that  
13 Mr. Buryakov would like to be recommended to Fort Dix.

14 THE COURT: I will come to that.

15 MR. HERSHMAN: Okay. Then I will wait.

16 THE COURT: When that time comes, I will make that  
17 recommendation.

18 MR. HERSHMAN: Premature. I thought it may be  
19 premature. It was. Other than that, no.

20 THE COURT: Okay. What about Mr. Buryakov, anything?

21 THE DEFENDANT: No.

22 THE COURT: Or how about the government?

23 MR. RITCHIN: Nothing from the government.

24 THE COURT: Then I would ask Mr. Buryakov to stand.

25 I will say, the one difference, as I pointed out, a

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1 difference between the parties about the fine, to me one of the  
2 central factors was his earning power historically -- there  
3 didn't seem to be any dispute that he had been earning \$204,000  
4 a year -- also his relatively young age and his potential  
5 earning power going forward, so I think that that fine of  
6 \$10,000, at the low end of the guideline range, is totally  
7 appropriate.

8           So having considered the factors at 18 United States  
9 Code § 3553(a), it is my judgment that defendant, Evgeny  
10 Buryakov, be committed to the custody of the Bureau of Prisons  
11 to be imprisoned for a term of 30 months with, of course,  
12 credit for time already served. That would be followed by a  
13 period of supervised release of three years, assuming that any  
14 supervision in the United States were to happen. It seems  
15 unlikely. And that would be subject to those mandatory and  
16 special conditions that I mentioned before and incorporate here  
17 by reference. A fine of \$10,000 payable within six months of  
18 his release from custody, no restitution, a \$100 special  
19 assessment which is mandatory and due immediately.

20           As for the reasons for the sentence, I mentioned them  
21 earlier, and particularly with reference to the factors at  
22 18 U.S.C. § 3553(a), and I incorporate that discussion here.

23           I would ask at this time does either counsel know of  
24 any legal reason why the sentence should not be imposed as so  
25 stated?

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1 MR. HERSHMAN: No, your Honor.

2 MR. RITCHIN: No, your Honor.

3 THE COURT: Then I hereby order the sentence to be  
4 imposed as so stated.

5 Mr. Buryakov, to the extent that you have not already  
6 waived your appeal rights -- and of course now I am referring  
7 to the plea agreement dated March 9, 2016, which in fact  
8 includes a series of waivers of appeal rights as follows, in  
9 that plea agreement, which I think was actually signed on March  
10 11, 2016, you agree that you would not file a direct appeal,  
11 you also waived your right to bring what's called a collateral  
12 challenge, including but not limited to an application under 28  
13 United States Code § 2255 and/or 2241. You also waived your  
14 right to seek a sentence modification under 18 U.S.C. § 3582(c)  
15 of any sentence that is at or below the stipulated sentence of  
16 30 months of imprisonment, and this sentence is exactly that  
17 number, so these waivers apply.

18 You also waived your right to appeal any term of  
19 supervised release that is less than or equal to the statutory  
20 maximum of three years. Again, that waiver applies because the  
21 term of supervision is three years.

22 You also agree not to appeal any fine that is less  
23 than or equal to \$100,000, and that fine that I imposed is much  
24 less than that, so that waiver applies.

25 You also agreed not to challenge your conviction or

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1 sentence on direct appeal or through litigation under 28 United  
2 States Code § 2255 and/or 2241 on the basis of any actual or  
3 perceived adverse immigration consequence, including a  
4 deportation that might result from your guilty plea and  
5 conviction and sentence.

6 But to the extent that there are other rights that I  
7 have not mentioned or thought of, I notify you that you have  
8 the right to appeal those. If you are unable to pay the costs  
9 of an appeal, you have the right to apply for leave to appeal  
10 *in forma pauperis*; and, if you request, the clerk of court will  
11 prepare and file a notice of appeal on your behalf immediately.

12 So I would ask you, Mr. Buryakov, if you understand  
13 your appeal rights, including the waivers of appeal that I have  
14 summarized.

15 THE DEFENDANT: Yes, I do, your Honor.

16 THE COURT: Are there any aspects of the case the  
17 government was seeking to dismiss or resolve at this time?

18 MR. RITCHIN: Yes, your Honor. We would like to move  
19 to dismiss the open counts at this time.

20 THE COURT: That application is granted.

21 Starting with the government, did you wish to add  
22 anything to today's proceeding?

23 MR. RITCHIN: No, your Honor.

24 THE COURT: Mr. Hershman, if you want to make that  
25 recommendation now, I am happy to entertain it.

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1 MR. HERSHMAN: Okay, yeah, I will try again.

2 Your Honor, we would ask that the court recommend to  
3 the Bureau of Prisons that Mr. Buryakov serve the remaining  
4 sentence at Fort Dix.

5 THE COURT: I will make that recommendation. You and  
6 Mr. Buryakov know that the court can only recommend in such a  
7 situation, but I am happy to include that.

8 MR. HERSHMAN: Thank you.

9 THE DEFENDANT: Thank you.

10 THE COURT: All right. Well I think, then, that  
11 concludes our work for today, and the sentence is concluded.

12 Thanks very much. Nice to see you.

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